

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PROJECT PATCH FAMILY THERAPY
CENTER,

Plaintiff,

v.

KLICKITAT COUNTY BOARD OF
ADJUSTMENT; and KLICKITAT
COUNTY, WASHINGTON,

Defendants.

CASE NO. C08-5057BHS

ORDER DENYING
DEFENDANTS' MOTION
FOR RECONSIDERATION

This matter comes before the Court on Defendants' Motion for Reconsideration (Dkt. 13). Having considered the Defendants' motion and memorandum in support, the Court hereby denies Defendants' motion for the reasons stated herein.


Pursuant to Local Rule CR 7 (h)(1), motions for reconsideration will normally be denied unless there is a showing of manifest error or new facts or legal authority have been presented which could not have been presented to the Court earlier. Defendants ask the Court to reconsider its previous order remanding this matter to state court for further proceedings pursuant to the *Pullman* abstention doctrine because the state law issues presented by this matter are not certain. Dkt. 14 at 4. However, the Court does find that the state law issues presented are uncertain. Like the court in *Pearl Investment Co. v. City and County of San Francisco*, 774 F.2d 1460 (9th Cir. 1985), this court finds that it

1 is not writing on a clean slate when determining whether state law questions are doubtful
2 in land use or zoning cases. While the state land use issues presented in this case may be
3 arguably certain, the issues presented in the instant matter do turn on the “peculiar facts”
4 presented “in light of the many local and statewide land use laws and regulations
5 applicable to the area in question” and this Court does not presume to be able to predict
6 how a state court would decide these issues. *Pearl*, 774 F.2d at 1465. Given the
7 precedent established in the Ninth Circuit, as discussed in *Pearl*, the Court is guided to
8 exercise its discretion in remanding this case pursuant to the *Pullman* abstention doctrine.

9 Therefore, it is **ORDERED** that Defendants’ Motion for Reconsideration (Dkt. 13)
10 is hereby **DENIED**.

11 DATED this 21st day of April, 2008.

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BENJAMIN H. SETTLE
United States District Judge